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12 **UNITED STATES DISTRICT COURT**

13 **EASTERN DISTRICT OF CALIFORNIA**

14 Anthony Silva by and through his
15 Guardian *ad Litem* Dorothy Jean
16 Heimbach,

17 Plaintiff,

18 vs.

19 Stanislaus County; and DOES 1–10,
20 in their individual capacities,

21 Defendants.

Case No.

COMPLAINT FOR DAMAGES

Federal Law Claims

1. Fourth Amendment, Unlawful Detention (42 U.S.C. § 1983)
2. Fourth Amendment, Excessive Force (42 U.S.C. § 1983)
3. Fourth Amendment, Denial of Medical Care (42 U.S.C. § 1983)
4. Municipal Liability, Unconstitutional Custom or Policy (42 U.S.C. § 1983)
5. Municipal Liability, Failure to Train (42 U.S.C. § 1983)
6. Municipal Liability – Ratification (42 U.S.C. § 1983)
7. Americans with Disabilities Act (42 U.S.C. § 12132)

State Law Claims

8. False Arrest
9. Battery
10. Negligence
11. Intentional Infliction of Emotional Distress
12. Violation of Cal. Civil Code § 52.1

DEMAND FOR JURY TRIAL

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JURISDICTION AND VENUE

1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4) because Mr. Silva asserts claims arising under the laws of the United States, including 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

INTRODUCTION

3. On the afternoon of October 8, 2022, the ordinary life of Plaintiff Anthony Silva, a 39-year-old resident of Riverbank, California, was catastrophically and irrevocably shattered. From the peaceful setting of a public gazebo emerged an episode of gut-wrenching brutality meted out by the very individuals entrusted with his protection: deputies of the Stanislaus County Sheriff's Department.

5. To add to the severity of their misconduct, the deputies, in clear disregard for Mr. Silva's visibly deteriorating condition, proceeded to move him around—first lifting him from the ground to a park bench and later, from the bench to a picnic table. Every shift, every jostle, every moment of delay in getting professional medical help intensified Mr. Silva's injuries, exacerbating the damage

1 to his cervical vertebrae and directly contributing to his permanent state of
2 quadriplegia.

3 6. These tragic events are a direct consequence of the deeply flawed
4 policies and practices at the Stanislaus County Sheriff's Department. The
5 department's inadequate and deficient training procedures have not only failed to
6 prevent such instances of excessive force, but also, the department has ratified the
7 unconstitutional conduct of their officers time and time again.

8 PARTIES

9 7. At all relevant times, Plaintiff Anthony Silva was an individual residing
10 in the City of Riverbank, California.

11 8. Stanislaus County is a political subdivision of the State of California,
12 and in doing the acts alleged was acting as such, rather than as an "arm of the state"
13 for Eleventh Amendment immunity purposes.

14 9. Stanislaus County is responsible for the actions, omissions, policies,
15 procedures, practices, and customs of its various agents and agencies, including the
16 Stanislaus County Sheriff's Department and its agents and employees. At all
17 relevant times, Stanislaus County was responsible for assuring that the actions,
18 omissions, policies, procedures, practices, and customs of the Stanislaus County
19 Sheriff's Department and its employees and agents complied with the laws of the
20 United States and of the State of California. At all relevant times, Stanislaus County
21 was the employer of Defendant Does 1–10 ("Defendant Does").

22 10. Defendant Does 1-6 ("Deputy Does") are deputy sheriffs working for
23 the Stanislaus County Sheriff's Department. At all relevant times, Doe Deputies
24 were acting under color of law within the course and scope of their duties as sheriff's
25 deputies for the Stanislaus County Sheriff's Department. The Deputy Does were
26 acting with the complete authority and ratification of their principal, Stanislaus
27 County.

28 11. Defendant Does 7–10 ("Supervisor Does") are managerial,

1 supervisory, and policymaking employees of the Stanislaus County Sheriff's
2 Department, who were acting under color of law within the course and scope of their
3 duties as managerial, supervisory, and policymaking employees for the Stanislaus
4 County Sheriff's Department. Supervisor Does were acting with the complete
5 authority and ratification of their principal, Stanislaus County.

6 12. On information and belief, the Defendant Does were residents of the
7 County of Stanislaus.

8 13. In doing the acts and failing and omitting to act as hereinafter
9 described, the Deputy Does were acting on the implied and actual permission and
10 consent of the Supervisor Does.

11 14. In doing the acts and failing and omitting to act as hereinafter
12 described, all Defendant Does were acting on the implied and actual permission and
13 consent of Stanislaus County.

14 15. The true names and capacities, whether individual, corporate,
15 association, or otherwise of Defendant Does are unknown to Mr. Silva, who
16 otherwise would not sue these Defendants by such fictitious names. Mr. Silva will
17 seek leave to amend his complaint to show the true names and capacities of these
18 Defendants when they have been ascertained. Each of the fictitiously-named
19 Defendants is responsible in some manner for the conduct or liabilities alleged
20 herein.

21 16. At all times mentioned herein, Defendant Does were the agents of
22 Stanislaus County. The Supervisor Does had the legal duty to oversee and supervise
23 the hiring, conduct, and employment of the Deputy Does.

24 17. All of the acts complained of herein by Mr. Silva against Defendants
25 were done and performed by said Defendants. Stanislaus County and the Supervisor
26 Does acted by and through their authorized agents, servants, and/or employees, all of
27 whom at all relevant times herein were acting within the course, purpose, and scope
28 of said agency, service, and/or employment capacity. Moreover, Stanislaus Count

1 and the Supervisor Does and their agents ratified all of the acts complained of
2 herein.

3 18. Defendant Does are sued in their individual capacities.

4 19. On or around February 2, 2023, Mr. Silva filed comprehensive and
5 timely claims for damages with Stanislaus County pursuant to applicable sections of
6 the California Government Code.

7 20. On March 16, 2023, Stanislaus County rejected the claims.

8 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

9 21. On the afternoon of October 8, 2022, Plaintiff Anthony Silva's life was
10 irrevocably altered when Stanislaus County deputies unleashed a brutal assault,
11 leaving him permanently quadriplegic.

12 22. Mr. Silva was outside the Riverbank Community Center at 3600 Santa
13 Fe St, Riverbank, CA 95367, near a gazebo that is a public facility.

14 23. At the time of the incident, Mr. Silva was a 39-year-old man.

15 24. Mr. Silva is a high school graduate.

16 25. For several years before the incident, he had been experiencing housing
17 instability, and he was suffering from mental illness. The Deputy Does were familiar
18 with Mr. Silva, and they were aware that he suffered from mental illness.

19 26. The Deputy Does surrounded Mr. Silva and began harassing him,
20 giving him orders and speaking to him aggressively despite the fact that Mr. Silva
21 had committed no crime, and had a right to be where he was, on public property.

22 27. The Deputy Does detained Mr. Silva without reasonable suspicion that
23 he had committed any crime.

24 28. At one point, one of the Deputy Does became angry and forcefully
25 slammed Mr. Silvato head-first into the ground.

26 29. The forceful takedown of Mr. Silva resulted in cervical fractures of his
27 C6 and C7 vertebrae. In layman's terms, Mr. Silva's neck was broken.

28 30. Due to his broken neck, Mr. Silva could not get back to his feet.

1 31. Although Mr. Silva was clearly suffering from a severe injury, the
2 Deputy Does did not promptly call paramedics.

3 32. Instead, as Mr. Silva lay on the ground, Defendants began to move his
4 injured body. First they moved him from the ground, sitting him upright at a park
5 bench. Then they moved him from the bench to a picnic table.

6 33. Moving Mr. Silva multiple times exacerbated his neck injury, resulting
7 in permanent quadriplegia.

8 34. The Deputy Does caused a delay in Mr. Silva's receipt of medical care,
9 despite the obvious and urgent need.

10 35. At all relevant times, Mr. Silva complied with the Deputy Does'
11 commands and did not resist arrest.

12 36. At all relevant times, the Deputy Does had no information that Mr.
13 Silva posed any threat of injury to anyone, nor did they have information that Mr.
14 Silva had actually injured anyone.

15 37. Mr. Silva had in fact, not hurt anyone at any relevant time.

16 38. At all relevant times, Defendant officers failed to warn Mr. Silva that
17 they would begin using force against him, despite it being feasible to do so, and
18 despite Mr. Silva's with the Deputy Does' commands.

19 39. At all relevant times, Mr. Silva posed no imminent threat of bodily
20 harm to the Deputy Does or anyone else.

21 40. At all relevant times, Mr. Silva made no verbal threats to any officer or
22 anyone else.

23 41. At all relevant times, the Deputy Does could observe that Mr. Silva was
24 unarmed and had no weapons in his possession.

25 42. At all relevant times, the Deputy Does had no information that Mr.
26 Silva had committed a crime unrelated to the alleged shoulder-check the officer
27 claimed to have experienced.

28 43. At all relevant times, the Deputy Does failed to make any effort to

1 ascertain whether Mr. Silva was suffering from a medical problem or crisis requiring
2 urgent treatment, as was obvious and in fact the case at the time.

3 44. At all relevant times, the Deputy Does failed to take steps to de-escalate
4 the situation or give Mr. Silva the opportunity to cooperate with their instructions or
5 comply with their orders prior to assaulting him.

6 45. As a result of the Deputy Does forceful takedown, restraint, and
7 subsequent movement of his injured body, Mr. Silva suffered significant injuries,
8 including a C6, C7 cervical fracture leading to permanent quadriplegia, skin
9 abrasions on his arms, and various complications including pneumonia in both lower
10 lobes of his lungs and blood clots.

11 46. Due to the injuries inflicted by the actions of the Deputy Does, Mr.
12 Silva was forced to undergo endotracheal intubation. This procedure involves
13 inserting a flexible plastic tube through the patient's mouth and into the windpipe,
14 which is then connected to a ventilator to assist in breathing. It's often required when
15 individuals are unable to breathe independently due to severe injury or illness.

16 47. In addition to his lasting physical problems, Mr. Silva was significantly
17 traumatized by the arrest and unjustified use of force he experienced and has
18 suffered significant emotional harm. Mr. Silva's quality of life has been significantly
19 diminished as a result of this incident and the lasting injuries he suffered.

20 48. The conduct of the Deputy Does was malicious, wanton, and
21 oppressive. Mr. Silva is therefore entitled to an award of punitive damages against
22 said defendant deputies.

23 **FIRST CLAIM FOR RELIEF**

24 **Fourth Amendment, Unlawful Detention (42 U.S.C. § 1983)**

25 **Against Defendant Does 1–10**

26 49. Mr. Silva repeats and realleges each and every allegation in the
27 foregoing paragraphs of this Complaint with the same force and effect as if fully set
28 forth herein.

1 50. The Deputy Does detained Mr. Silva without reasonable suspicion or
2 probable cause. At all relevant times, Defendant Does acted under color of state law.
3 The Deputy Does unreasonably seized Mr. Silva when they surrounded and harassed
4 him without reasonable suspicion that he had committed or was going to commit any
5 crime.

6 53. In addition, the scope and manner of the detention was unreasonable. It
7 was not necessary to use force against Mr. Silva. It was certainly not necessary to
8 slam him to the ground head-first, breaking his neck in two places. Moreover, it was
9 not necessary to apply force to Mr. Silva's body after he was laying on the ground
10 unable to move.

11 54. The conduct of the Deputy Does was done with reckless disregard for
12 the rights and safety of Mr. Silva and therefore warrants the imposition of exemplary
13 and punitive damages as to these defendants. As a direct result of the unreasonable
14 detention and arrest, Mr. Silva experienced severe pain and suffering for which he is
15 entitled to recover damages.

16 55. As a result of their misconduct, the Deputy Does are liable for Mr.
17 Silva's injuries, either because they were integral participants in the wrongful
18 detention and arrest, or because they failed to intervene to prevent these violations.

19 56. Mr. Silva brings this claim and seeks damages on this claim, including
20 for his injuries, including for pain and suffering, emotional distress from his physical
21 injuries, humiliation, disfigurement, financial loss, and reduced earning capacity.

22 57. The Supervisor Does were aware of Mr. Silva's status as an unhoused
23 individual suffering from mental illness. They were aware that Stanislaus Deputies,
24 including the Deputy Does, frequently detained Mr. Silva and similarly situated
25 individuals without reasonable suspicion. Their failure to properly supervise the
26 Deputy Does by instructing them to cease such unconstitutional behavior was a
27 contributing cause of Mr. Silva's injuries.

28 58. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to

1 42 U.S.C. § 1988.

2 **SECOND CLAIM FOR RELIEF**

3 **Fourth Amendment, Excessive Force (42 U.S.C. § 1983)**

4 **Against Defendant Does 1–10**

5 59. Mr. Silva repeats and realleges each and every allegation in the
6 foregoing paragraphs of this Complaint with the same force and effect as if fully set
7 forth herein.

8 60. The Deputy Does use of force against Mr. Silva were excessive and
9 unreasonable under the circumstances. These Defendants encountered Mr. Silva who
10 may have been in the midst of a mental health crisis, and instead of providing the
11 assistance he needed, they detained and severely battered him. At the time of the
12 incident, Mr. Silva offered minimal resistance to the officers, made no attempt to
13 flee, and had committed no serious crime.

14 61. These Defendants' uses of force were further excessive in that Mr. Silva
15 never physically injured them or anyone else before or after the officers assaulted
16 him. Further, Mr. Silva never verbally threatened anyone, and never brandished a
17 weapon.

18 62. The unreasonable use of force by the Deputy Does deprived Mr. Silva
19 of his right to be secure in his person against unreasonable searches and seizures as
20 guaranteed to Mr. Silva under the Fourth Amendment to the United States
21 Constitution and applied to state actors by the Fourteenth Amendment.

22 63. As a result, Mr. Silva suffered severe pain and suffering and permanent
23 health repercussions, the most significant being permanent quadriplegia. The Deputy
24 Does are therefore liable to Mr. Silva for compensatory damages under 42 U.S.C. §
25 1983.

26 64. As a result of the Deputy Does conduct, they are liable for Mr. Silva's
27 injuries, either because they were integral participants in the use of excessive force,
28 or because they failed to intervene to prevent these violations.

65. The conduct of the Deputy Does was willful, wanton, malicious, and done with reckless disregard for the rights and safety of Mr. Silva and therefore warrants the imposition of exemplary and punitive damages as to these Defendants.

66. Mr. Silva brings this claim and seeks damages on this claim, including for Mr. Silva's injuries, including for pain and suffering, emotional distress from his physical injuries, humiliation, disfigurement, financial loss, and reduced earning capacity.

67. The Supervisor Does were aware of Mr. Silva's status as an unhoused individual suffering from mental illness. They were aware that Stanislaus Deputies, including the Deputy Does, frequently used excessive force against individuals similarly situated to Mr. Silva without justification. Their failure to properly supervise the Deputy Does by instructing them to cease such unconstitutional conduct was a contributing cause of their unconstitutional use of excessive force and Mr. Silva's injuries.

68. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to 42 U.S.C. § 1988.

THIRD CLAIM FOR RELIEF

Fourth Amendment, Denial of Medical Care (42 U.S.C. § 1983)

Against Defendant Does 1–6

69. Mr. Silva repeats and realleges each and every allegation in the foregoing paragraphs of this Complaint with the same force and effect as if fully set forth herein.

70. After slamming Mr. Silva head-first into the ground, breaking his neck in two places, the Deputy Does did not timely summon or provide medical attention to Mr. Silva.

71. After being taken to the ground, Mr. Silva could not get back to his feet because his neck was broken in two places.

72. Although Mr. Silva was clearly suffering from a severe injury, the

1 Deputy Does did not promptly call paramedics.

2 73. Instead, as Mr. Silva lay on the ground, Defendants began to move his
3 injured body. First they moved him from the ground, sitting him upright at a park
4 bench. Then they moved him from the bench to a picnic table.

5 74. Moving Mr. Silva multiple times exacerbated his neck injury, resulting
6 in permanent quadriplegia.

7 75. The Deputy Does therefore caused a delay in Mr. Silva's receipt of
8 medical care, despite the obvious and urgent need.

9 76. The denial of medical care by the Deputy Does deprived Mr. Silva of
10 his right to be secure in his persons against unreasonable searches and seizures as
11 guaranteed to Mr. Silva under the Fourth Amendment to the United States
12 Constitution and applied to state actors by the Fourteenth Amendment.

13 77. As a result, Mr. Silva suffered severe pain and suffering and permanent
14 health repercussions, the most significant being permanent quadriplegia. The Deputy
15 Does are therefore liable to Mr. Silva for compensatory damages under 42 U.S.C. §
16 1983.

17 78. The Deputy Does knew that failure to provide timely medical treatment
18 to Mr. Silva could result in further significant injury or the unnecessary and wanton
19 infliction of pain, but disregarded that serious medical need, exacerbating his pain
20 and suffering.

21 79. The conduct of the Deputy Does was willful, wanton, malicious, and
22 done with reckless disregard for the rights and safety of Mr. Silva and therefore
23 warrants the imposition of exemplary and punitive damages as to these Defendants.

24 80. Mr. Silva brings this claim and seeks damages on this claim, including
25 for Mr. Silva's injuries, including for pain and suffering, emotional distress from his
26 physical injuries, humiliation, disfigurement, financial loss, and reduced earning
27 capacity.

28 81. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to

1 42 U.S.C. § 1988.

2 **FOURTH CLAIM FOR RELIEF**

3 **Municipal Liability for Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

4 **Against Stanislaus County**

5 82. Mr. Silva repeats and realleges each and every allegation in the
6 foregoing paragraphs of this Complaint with the same force and effect as if fully set
7 forth herein.

8 83. As alleged above, the Deputy Does acted under color of state law, and
9 their acts deprived Mr. Silva of his particular rights under the United States
10 Constitution.

11 84. On information and belief, the Deputy Does were not disciplined,
12 reprimanded in connection with this incident.

13 85. The Deputy Does, together with other Stanislaus County policymakers
14 and supervisors, maintained, inter alia, the following unconstitutional customs,
15 practices, and policies:

- 16 i. Using excessive force, particularly by slamming individuals into
17 the ground head-first, causing potential harm and injury;
- 18 ii. Providing inadequate training with respect to the handling of
19 individuals, particularly in situations that could lead to head and
20 neck injuries;
- 21 iii. Providing inadequate training regarding the appropriate response
22 to neck injuries;
- 23 iv. Employing and retaining as deputy sheriffs individuals such as
24 the Deputy Does, whom Stanislaus County at all times material
25 herein knew or reasonably should have known had dangerous
26 propensities for abusing their authority and for using excessive
27 force, including head-first ground slams;
- 28 v. Inadequately supervising, training, controlling, assigning, and

1 disciplining deputies and other personnel, including the Deputy
2 Does, whom Stanislaus County knew or in the exercise of
3 reasonable care should have known had the aforementioned
4 propensities and character traits;

5 vi. Maintaining grossly inadequate procedures for reporting,
6 supervising, investigating, reviewing, disciplining and controlling
7 misconduct by Stanislaus County deputies, particularly in
8 relation to incidents involving head-first ground slams and
9 inappropriate handling of neck injuries;

10 vii. Failing to adequately discipline Stanislaus County deputies for
11 the above-referenced categories of misconduct, including
12 inadequate responses to incidents of head-first ground slams and
13 improper handling of neck injuries;

14 viii. Determining that unjustified uses of force, including head-first
15 ground slams and improper handling of neck injuries, are within
16 policy;

17 ix. Even though in similar circumstances, head-first ground slams
18 have been determined by courts to be unconstitutional, Stanislaus
19 County refuses to discipline, terminate, or retrain the officers
20 involved in such incidents;

21 x. Encouraging, accommodating, or facilitating a “blue code of
22 silence,” pursuant to which police officers do not report other
23 officers’ errors, misconduct, or crimes. Pursuant to this code of
24 silence, if questioned about an incident of misconduct involving
25 another officer, while following the code, the officer being
26 questioned will claim ignorance of the other officers’
27 wrongdoing; and

28 xi. Maintaining a policy of inaction and an attitude of indifference

1 towards soaring numbers of police use-of-force incidents,
2 including by failing to discipline, retrain, investigate, terminate,
3 and recommend officers for criminal prosecution who participate
4 in the use of force and restraint of unarmed people, particularly in
5 relation to incidents involving head-first ground slams and
6 improper handling of neck injuries.

7 86. The aforementioned acts and omissions caused Mr. Silva's physical
8 injuries and emotional harm.

9 87. Stanislaus County, together with various other officials, whether named
10 or unnamed, had either actual or constructive knowledge of the deficient policies,
11 practices and customs alleged in the paragraphs above. Despite having knowledge as
12 stated above, these defendants condoned, tolerated and through actions and inactions
13 thereby ratified such policies. Said defendants also acted with deliberate indifference
14 to the foreseeable effects and consequences of these policies with respect to the
15 constitutional rights of Mr. Silva and other individuals similarly situated.

16 88. By perpetrating, sanctioning, tolerating and ratifying the outrageous
17 conduct and other wrongful acts, Stanislaus officials acted with intentional, reckless,
18 and callous disregard for the constitutional rights of Mr. Silva. Furthermore, the
19 policies, practices, and customs implemented, maintained, and still tolerated by
20 Defendant County of Stanislaus were affirmatively linked to and were a significantly
21 influential force behind the Mr. Silva injuries.

22 89. Accordingly, Stanislaus County is liable to Mr. Silva for compensatory
23 damages under 42 U.S.C. § 1983.

24 90. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to
25 42 U.S.C. § 1988.

26 **FIFTH CLAIM FOR RELIEF**

27 **Municipal Liability – Failure to Train (42 U.S.C. § 1983)**

28 **Against Stanislaus County**

91. Mr. Silva repeats and realleges each and every allegation in the foregoing paragraphs of this Complaint with the same force and effect as if fully set forth herein.

92. As alleged above, the Deputy Does acted under color of state law, and their acts deprived Mr. Silva of his particular rights under the United States Constitution.

93. The training policies of Stanislaus County were not adequate to train its deputies to handle the usual and recurring situations with which they must deal.

94. Defendants Stanislaus County and Supervisor Does were deliberately indifferent to the obvious consequences of its failure to train its deputies adequately.

95. The failure of Defendants Stanislaus County and Supervisor Does to provide adequate training caused the deprivation of the plaintiffs' rights by the Deputy Does; that is, the defendant's failure to train is so closely related to the deprivation of the Mr. Silva's rights as to be the moving force that caused the ultimate injury.

96. By reason of the aforementioned acts and omissions caused Mr. Silva to suffer great physical and emotional harm.

97. Accordingly, Stanislaus County is liable to Mr. Silva for compensatory damages under 42 U.S.C. § 1983.

98. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to 42 U.S.C. § 1988.

SIXTH CLAIM FOR RELIEF

Municipal Liability – Ratification (42 U.S.C. § 1983)

Against Stanislaus County

99. Mr. Silva repeats and realleges each and every allegation in the foregoing paragraphs of this Complaint with the same force and effect as if fully set forth herein.

100. As alleged above, the Deputy Does acted under color of state law, and

1 their acts deprived Mr. Silva of his particular rights under the United States
2 Constitution.

3 101. Upon information and belief, a final policymaker, acting under color of
4 law, who had final policymaking authority concerning the acts of the Deputy Does
5 ratified (or will ratify) the acts of the Deputy Does and the bases for them. Upon
6 information and belief, the final policymaker knew of and specifically approved of
7 (or will specifically approve of) the acts of the Deputy Does.

8 102. Upon information and belief, a final policymaker has determined (or
9 will determine) that the acts of the Deputy Does were “within policy.”

10 103. On information and belief, the Deputy Does were not disciplined,
11 reprimanded, retrained, suspended, or otherwise penalized in connection with this
12 incident.

13 104. Accordingly, Stanislaus County is liable to Mr. Silva for compensatory
14 damages under 42 U.S.C. § 1983.

15 105. Mr. Silva seeks compensatory damages under this claim.

16 106. Mr. Silva also seeks attorney’s fees and costs for this claim, pursuant to
17 42 U.S.C. § 1988.

18 **SEVENTH CLAIM FOR RELIEF**

19 **Americans with Disabilities Act (42 U.S.C. § 12132)**

20 **Against Stanislaus County**

21 107. Mr. Silva repeats and realleges each and every allegation in the
22 foregoing paragraphs of this Complaint with the same force and effect as if fully set
23 forth herein.

24 108. Mr. Silva was a "qualified individual," with a mental impairment that
25 substantially limited his ability to care for himself and control his mental, medical or
26 physical health condition as defined under the Americans with Disabilities Act
27 (ADA), 42 U.S.C. §12131 (2), and under Section 504 of the Rehabilitation Act of
28 1973, 29 U.S.C. §794.

1 109. Stanislaus County is a covered entity for purposes of enforcement of the
2 ADA, 42 U.S.C. §12131 (2), and under Section 504 of the Rehabilitation Act of
3 1973, explicated by the regulations promulgated under each of these laws.

4 110. Under the ADA, Stanislaus County is mandated to “develop an
5 effective, integrated, comprehensive system for the delivery of all services to
6 persons with mental disabilities and developmental disabilities. . .” and to ensure
7 “that the personal and civil rights” of persons are protected.

8 111. Congress enacted the ADA upon a finding, among other things, that
9 “society has tended to isolate and segregate individuals with disabilities” and that
10 such forms of discrimination continue to be a “serious and pervasive social
11 problems.” 42 U.S.C. §12101(a)(2).

12 112. Stanislaus County is mandated under the ADA not to discriminate
13 against any qualified individual on the basis of disability in the full and equal
14 enjoyment of the goods, services, facilities, privileges, advantages, or
15 accommodations of any place of public accommodation." 42 U.S.C. §12182 (a).

16 113. Stanislaus County receives federal financial assistance for its Sheriff’s
17 Office, and therefore must comply with the mandates of the Rehabilitation Act,
18 §504, which specifies that “program or activity” means all of the operations of a
19 department, agency, special purpose district, or other instrumentality of a State or of
20 a local government.

21 114. Stanislaus County and other Defendants violated the ADA and the
22 Rehabilitation Act, and deprived Mr. Silva of his federally and state protected rights
23 by: (1) failing to properly train its deputies, dispatch staff and/or employees to
24 peacefully respond, treat, and interact with disabled persons, such as Mr. Silva; and
25 (2) failing to comply with the U.S. Department of Justice requirements regarding
26 care, treatment and security to persons with mental disabilities, resulting in
27 discrimination against Mr. Silva, under the ADA and the Rehabilitation Act.

28 115. As a legal result of the acts and misconduct of the Defendants and each

1 Defendant complained of herein, Mr. Silva has suffered, is now suffering and will
2 continue to suffer damages as alleged herein. Mr. Silva seeks compensatory damages
3 under this claim.

4 116. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to
5 42 U.S.C. § 1988.

6 **EIGHTH CLAIM FOR RELIEF**

7 **False Arrest**

8 **Against All Defendants**

9 117. Mr. Silva repeats and realleges each and every allegation in the
10 foregoing paragraphs of this Complaint with the same force and effect as if fully set
11 forth herein.

12 118. The Deputy Does intentionally deprived Mr. Silva of his freedom of
13 movement by use of force, threats of force, menace, fraud, deceit, and unreasonable
14 duress. The Deputy Does did not have reasonable suspicion that Mr. Silva was
15 engaged in any criminal activity, Mr. Silva was not engaged in any criminal activity
16 at any point during this incident, and he did not in any way interfere with or obstruct
17 the defendant officers' duties with respect to the incident. Mr. Silva did not
18 knowingly or voluntarily consent to being detained.

19 119. At the time of the unlawful detention of Mr. Silva, the Deputy Does
20 were working as Stanislaus County deputies and were acting within the course and
21 scope of their employment and duties.

22 120. As a result of their misconduct, the Deputy Does are liable for Mr.
23 Silva's injuries.

24 121. Mr. Silva brings this claim in his individual capacity against the Deputy
25 Does and seeks compensatory damages, including pain and suffering and emotional
26 and mental distress for the violation of his rights.

27 122. The Supervisor Does were aware of Mr. Silva's status as an unhoused
28 individual suffering from mental illness. They were aware that Stanislaus Deputies,

1 including the Deputy Does, frequently arrested individuals similarly situated to Mr.
2 Silva without probably cause. Their failure to properly supervise the Deputy Does by
3 instructing them to cease such conduct was a contributing cause of Mr. Silva's
4 injuries.

5 123. Mr. Silva also seeks attorney's fees and costs for this claim, pursuant to
6 42 U.S.C. § 1988.

7 **NINTH CLAIM FOR RELIEF**

8 **Battery**

9 **Against All Defendants**

10 124. Mr. Silva repeats and realleges each and every allegation in the
11 foregoing paragraphs of this Complaint with the same force and effect as if fully set
12 forth herein.

13 125. Deputy Does physically assaulted Mr. Silva causing severe injuries
14 including permanent quadriplegia.

15 126. Deputy Does use of force against Mr. Silva were excessive and
16 unreasonable under the circumstances. These Defendants encountered Mr. Silva who
17 may have been in the midst of a mental health crisis, and instead of providing the
18 assistance he needed, they detained and severely battered him. At the time of the
19 incident, Mr. Silva offered minimal resistance to the officers, made no attempt to
20 flee, and had committed no serious crime.

21 127. The Deputy Does, while working for the Stanislaus County Sheriff's
22 Department and acting within the course and scope of their duties, encountered Mr.
23 Silva who may have been in the midst of a mental health crisis, and instead of
24 providing the assistance he needed, they detained and severely physically assaulted
25 him. At the time of the incident, Mr. Silva offered minimal resistance to the officers,
26 made no attempt to flee, and had committed no serious crime.

27 128. The use of force and restraint against Mr. Silva was objectively
28 unreasonable. At all relevant times, including when the Deputy Does slammed Mr.

1 Silva to the ground, Mr. Silva did not pose a threat to anyone. Mr. Silva was offering
2 minimal resistance, and had committed no crime. Additionally, Mr. Silva was
3 unarmed during this incident.

4 129. As a result of the actions of the Deputy Does, Mr. Silva is permanently
5 quadriplegic. The Deputy Does had no legal justification for using force against Mr.
6 Silva, and their use of force while carrying out their duties as a deputy sheriff was an
7 unreasonable use of force.

8 130. As a direct and proximate result of the conduct of the Deputy Does as
9 alleged above, Mr. Silva suffered significant damages related to his physical and
10 emotional injuries.

11 131. Stanislaus County is vicariously liable for the wrongful acts of the
12 Deputy Does pursuant to section 815.2(a) of the California Government Code, which
13 provides that a public entity is liable for the injuries caused by its employees within
14 the scope of the employment if the employee's act would subject her or her to
15 liability.

16 132. The Supervisor Does were aware of Mr. Silva's status as an unhoused
17 individual suffering from mental illness. They were aware that Stanislaus Deputies,
18 including the Deputy Does, frequently unjustifiably assault individuals similarly
19 situated to Mr. Silva. Their failure to properly supervise the Deputy Does by
20 instructing them to cease such conduct was a contributing cause of Mr. Silva's
21 injuries.

22 133. The conduct of the Deputy Does was malicious, wanton, oppressive,
23 and accomplished with a conscious disregard for the rights of Mr. Silva, entitling
24 him to an award of exemplary and punitive damages in addition to compensatory
25 damages.

26 **TENTH CLAIM FOR RELIEF**

27 **Negligence**

28 **Against All Defendants**

1 134. Mr. Silva repeats and realleges each and every allegation in the
2 foregoing paragraphs of this Complaint with the same force and effect as if fully set
3 forth herein.

4 135. The Deputy Does have a duty to use reasonable care to prevent harm or
5 injury to others. This duty includes using appropriate tactics, giving appropriate
6 commands, giving warnings, and not using any force unless necessary, using less
7 than lethal options, and only using deadly force as a last resort.

8 136. The Deputy Does breached this duty of care. The actions and inactions
9 of the Deputy Does were negligent and reckless, including but not limited to:

- 10 i. Surrounding and harassing Mr. Silva without any reasonable
11 suspicion of a crime being committed.
- 12 ii. Speaking to Mr. Silva aggressively and giving him orders despite
13 his right to be on public property.
- 14 iii. Detaining Mr. Silva without any reasonable suspicion of a crime.
- 15 iv. Forcefully slamming Mr. Silva head-first into the ground,
16 resulting in a broken neck.
- 17 v. Failing to promptly call paramedics despite Mr. Silva's obvious
18 severe injury.
- 19 vi. Moving Mr. Silva's injured body multiple times, exacerbating his
20 neck injury and resulting in permanent quadriplegia.
- 21 vii. Causing a delay in Mr. Silva's receipt of medical care, despite the
22 obvious and urgent need.

23 137. As a direct and proximate result of Defendants conduct as alleged
24 above, and other undiscovered negligent conduct, Mr. Silva was caused to suffer
25 severe pain and suffering and was rendered permanently quadriplegic.

26 138. Stanislaus County is vicariously liable for the wrongful acts of the
27 Deputy Does pursuant to section 815.2(a) of the California Government Code, which
28 provides that a public entity is liable for the injuries caused by its employees within

1 the scope of the employment if the employee's act would subject her or her to
2 liability.

3 139. The Supervisor Does were aware of Mr. Silva's status as an unhoused
4 individual suffering from mental illness. They were aware that Stanislaus Deputies,
5 including the Deputy Does, frequently unjustifiably assault individuals similarly
6 situated to Mr. Silva. They were negligent in their failure to properly supervise the
7 Deputy Does by instructing them to cease such conduct. And their negligence was a
8 contributing cause of the Deputy Does' actions and of Mr. Silva's injuries.

9 140. Mr. Silva seeks compensatory damages under this claim.

10 **ELEVENTH CLAIM FOR RELIEF**

11 **Intentional Infliction of Emotional Distress**

12 **Against All Defendants**

13 141. Mr. Silva repeats and realleges each and every allegation in the
14 foregoing paragraphs of this Complaint with the same force and effect as if fully set
15 forth herein.

16 142. The conduct of the Deputy Does, as set forth herein, was extreme and
17 outrageous and beyond the scope of conduct which should be tolerated by citizens in
18 a democratic and civilized society.

19 143. Defendants committed these extreme and outrageous acts with the
20 intent to inflict severe mental and emotional distress upon Mr. Silva.

21 144. As a proximate result of Defendants' willful, intentional and malicious
22 conduct, plaintiff suffered severe and extreme mental and emotional distress.

23 145. Therefore, Mr. Silva is entitled to an award of compensatory and
24 punitive damages against said defendants.

25 **TWELFTH CLAIM FOR RELIEF**

26 **Violation of Cal. Civil Code § 52.1**

27 **Against All Defendants**

28 146. Mr. Silva repeats and realleges each and every allegation in the

1 foregoing paragraphs of this Complaint with the same force and effect as if fully set
2 forth herein.

3 147. California Civil Code, Section 52.1 (the Bane Act), prohibits any
4 person from using violent acts or threatening to commit violent acts in retaliation
5 against another person for exercising that person's constitutional rights.

6 148. On information and belief, the Deputy Does, while working for the
7 Stanislaus County and acting within the course and scope of their duties,
8 intentionally committed acts of violence against Mr. Silva, including breaking his
9 neck by slamming him to the ground head-first, all without justification or excuse, or
10 by integrally participating and failing to intervene in the above violence, and by
11 denying him necessary medical care. The Deputy Does' intent to violate Mr. Silva's
12 constitutional rights is demonstrated by their reckless disregard for Mr. Silva's
13 constitutional rights.

14 149. The Deputy Does' use of extreme force and subsequent mistreatment of
15 Mr. Silva's injured body interfered with his civil rights to be free from unreasonable
16 searches and seizures, and his right to medical care to mitigate caused by the
17 deputies use of force.

18 150. On information and belief, the Deputy Does intentionally and spitefully
19 committed the above acts to discourage Mr. Silva from exercising his civil rights, to
20 retaliate against him for invoking such rights, or to prevent him from exercising such
21 rights, which he was fully entitled to enjoy.

22 151. On information and belief, Mr. Silva reasonably believed and
23 understood that the violent acts committed by the Deputy Does were intended to
24 discourage him from exercising the above civil rights, to retaliate against him for
25 invoking such rights, or to prevent him from exercising such rights.

26 152. The conduct of the Deputy Does was a substantial factor in causing Mr.
27 Silva's harms, losses, injuries, and damages.

28 153. Stanislaus County is vicariously liable for the wrongful acts of the

1 Deputy Does pursuant to section 815.2(a) of the California Government Code, which
2 provides that a public entity is liable for the injuries caused by its employees within
3 the scope of the employment if the employee's act would subject him or her to
4 liability.

5 154. The conduct of the Deputy Does was willful, wanton, malicious, and
6 done with reckless disregard for the rights and safety of Mr. Silva and therefore
7 warrants the imposition of exemplary and punitive damages as to these Defendants.

8 155. Mr. Silva seeks attorney's fees under this claim.

9 **PRAYER FOR RELIEF**


10 WHEREFORE, Plaintiff Anthony Silva requests entry of judgment in his
11 favor and against Defendants Stanislaus County and Stanislaus Sheriff Deputies,
12 Does 1–10, as follows:

- 13 A. For compensatory damages in an amount according to proof at trial;
- 14 B. For other general damages in an amount according to proof at trial;
- 15 C. For other non-economic damages in an amount according to proof at
16 trial;
- 17 D. For other special damages in an amount according to proof at trial;
- 18 E. For punitive damages against the individual defendants in an amount to
19 be proven at trial;
- 20 F. Attorney's fees pursuant to 42 U.S.C. § 1988;
- 21 G. For interest;
- 22 H. For reasonable costs of this suit; and

23 For such further other relief as the Court may deem just, proper, and
24 appropriate.

25 DATED: August 31, 2023

LAW OFFICES OF DALE K. GALIPO

26
27 
28 Dale K. Galipo
Attorney for Plaintiffs

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a trial by jury.

3
4 DATED: August 31, 2023

LAW OFFICES OF DALE K. GALIPO

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6 
7 Dale K. Galipo

8 Attorney for Plaintiffs

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